

**NH Vaccine Association – Board of Directors Meeting**  
**March 11, 2014 – 8:30 a.m. – 10:30 a.m.**  
**Conference Room – KidsVax.org**  
**Presiding Officer: Susan Tenney, Chair**

**I. Attendance.** Participating in all or part of the meeting in person (P) were the following individuals:

Directors

Susan Tenney – Harvard Pilgrim Health Care (P)  
Everett Lamm, M.D. (P)  
Jose T. Montero, M.D. - DHHS (P)  
Maria Proulx – Anthem (P)  
David Sky – NHID (P)

DHHS

Marcella J. Bobinsky (P)

Outside Counsel

Mark McCue, Esq. (P)

Members of the Public

Laura Condon, NVIC (P)

Absent

Scott Beaudette – CIGNA  
David Fredenburg, M.D.

KidsVax.org®

Fred L. Potter (P)  
Claire M. Roberge (P)  
Laurie Beth Pliakos (P)  
Terry Mills (P)

**II. Summary of Actions Taken and/or Recommended**

**A. Actions Taken (votes adopted)**

1. To approve the minutes of the January 21, 2014 board meeting with the suggestion made at this meeting.

**B. Follow up Task/Action Items**

1. Ms. Pliakos will distribute the 2014 Annual Reports by the end of this week.
2. KidsVax® will post the correct working versions of the governance documents to the website for Board review.
3. Ms. Mills will send out a meeting invite for the May 13<sup>th</sup> meeting.
4. Ms. Pliakos will send the FAQs to the Board this week and will request responses back from the Board in one week.
5. Once approved by the Board, KidsVax® will post the advisory FAQs to the NHVA website, subject to further Board revision.

**III. Minutes**

Welcome and Introductions

At approximately 9:15 a.m., a quorum having been established, Chairperson Susan Tenney called the meeting to order. Ms. Tenney surveyed the Board for any additional items to be added to the agenda.

Consent Calendar Items

Ms. Proulx indicated her interest in participating in the Legislative Task Force and asked that her name be added to that committee list. Ms. Tenney called for a vote to approve the minutes with this addition.

Upon motion duly made by Dr. Lamm and seconded by Dr. Montero, it was

VOTED: To approve the minutes of the January 21, 2014 board meeting with the suggestion made at this meeting.

Ms. Proulx abstained from voting, as she was not present at the January Board meeting.

Report on Consultation with Counsel

Attorney McCue reported that the amended RSA 126-Q broadens the assessment base considerably and, arguably, might be interpreted to encompass the MCOs which manage those states' Medicaid enrollees. At the January meeting, the Board asked Attorney McCue to determine whether it would require a legislative amendment or could be handled by the Plan of Operation given all legal issues involved. Attorney McCue reported that there are several hurdles with respect to a legislative amendment. The Insurance Department did not submit a technical bill this session and it would probably be imprudent to introduce this topic as a technical amendment at this late date. He focused his attention on whether this would be appropriate for a Plan of Operation amendment. Review of the revised statute clearly reflects the intent to broaden the assessment base, but the statute also reflects a structure that this Association, in the assessment base, is intended to cover only the non-federal portion of the vaccine program. Under the VFC program, a state can use the federal discount for the purchase of vaccines, but those vaccines cannot be used for children that are directly federally eligible, which includes children enrolled in Medicaid, the CHIP program, or uninsured. There is also a notion in the statute that there is no double counting or duplication of cost. The Association has the ability to work with other states if children living in New Hampshire are somehow vaccinated in another state. Clearly the MCOs have no enrollees that are benefiting from the state purchased funds and

are paid directly on the federal side. These MCOs contracted with the state under a NH Insurance Department bulletin that clearly stated that they were not subject to vaccine assessment. That bulletin was based on prior law before this law was amended and no longer piggybacked on the New Hampshire Health Plan. It is an unexpected considerable cost and would likely result in significant resistance, if not legal action, by the MCOs if the Association were to try to pass on an assessment where they, and the population they manage, don't receive the benefit at all from the costs of this program. Additionally, as this contract expires and if an assessment were again enforced against the MCOs, the MCOs have no enrollees in which to pass this cost on to, so it would be pushed back as a state cost. This would likely raise the issue of whether the state paying an MCO to cover the state portion of an assessment for vaccines is an eligible Medicaid cost. It would double up the cost to the state of vaccines that otherwise should be paid directly and only once by the federal government. The federal government most likely would not reimburse the state for paying that same cost twice for an MCO assessment. For these reasons, Attorney McCue indicated that this issue almost certainly was not contemplated by the legislature. The statute gives the Insurance Commissioner the right to approve the Plan of Operation. It gives the Health and Human Services Commissioner the right to identify assessment problems and ask the Association to fix them. If the Association is careful in identifying the issue and making clear that it is not necessarily the assessable entity but the assessable lives that are covered by the federal program, which do not have to be subject to the second additional assessment by the state program, then it is a matter that could be handled in the Plan of Operation because it is being reviewed by two governmental agencies. He suggested that it may be prudent, however, to wait until the final insurance coverage, formally known as Medicaid enhancement or extension, is finally determined by the legislature so there is a clear understanding of the population that this may effect. Ms. Tenney inquired if there would be a potential risk for the Association to wait until the end of the legislative session to see what happens with Medicaid expansion. Attorney McCue indicated that he does not see that there is a practical risk because the parties that would be most impaired by any decision would be a decision to follow the literal language and expand the assessment to the MCOs. Currently, the MCOs are not being assessed, so he does not see that there is essentially any additional risk.

#### Executive Director Updates

Mr. Potter reported that the implementation of the new assessment system has gone well. There have been two training sessions and several helpful comments and a number of questions have been received. Last fall a mailing went out to approximately 1,300 additional entities to make them aware of the potentially broadened sweep in an attempt to deploy the assessment more equitably. Technically, the stop loss carriers were assessable entities, and now the ASO firms and TPAs are also assessable entities. The statute cautions to take steps to avoid double counting and gave a default rule that if everything else is equal and there is no agreement between the parties to the contrary, the entity that is paying the medical claim for the administration of the vaccine will be the entity that reports and pays for the assessable lives. The entities have been urged to make sure that is clear in their private agreements and have also been advised per the Board's general guidance last meeting, that if in a tier of coverage, the parties want to change that allocation and enter into an agreement, the Association does not have to approve the agreement, but will accept their different allocation. Mr. Potter was aware of one union plan that has advised that it has made an agreement with a stop loss carrier to pay all state assessments for any purpose at any time. As a consequence, that stop loss carrier for that particular union plan, which interacted with an independent TPA involved in handling the negotiations, will be paying and reporting the assessable lives.

Some FAQs have been prepared for the Board's consideration. They are advisory at this point and are trying to document responses on the servicing side. Further Board input is welcome in this work. Further adjustments have been made to the assessment system based upon people's experience. Training materials have been posted to the website. The carrier servicing people appear to be pleased with the assessment tool and feel it is quite easy to use. A state-specific help contact point has been established at [help@nhvaccine.org](mailto:help@nhvaccine.org). Cross-state comparisons have been done to provide information regarding multi-state carriers that have some national accounts with membership footprints in New Hampshire and those were among the 1,300 entities that we contacted to alert them to this change. Mr. Potter indicated that the system is ready to go for the May assessment and the expected collection is about the numbers that were in the survey in terms of assessable lives. With the 1,300 carrier sweep, the assessable lives are expected to increase somewhat, but that number is unknown.

Ms. Tenney asked if there is a mechanism for monitoring when an assessment is being paid through a stop loss carrier, so that in the event the stop loss coverage is dropped, it can go back into the TPA. Mr. Potter indicated that TPAs that report they have not reported all of their assessable lives due to a stop loss carrier agreeing to report and pay for these assessable lives can be tracked separately to be certain that in the event that the stop loss coverage is dropped, that they roll back into the TPA so that they are captured somewhere. Further discussion ensued regarding the increased work on the part of the carriers to work through the assessable lives with large self-insured groups because of their concern that they might be double assessed. While matters are progressing well, this has involved a lot of work by the carriers, as well as KidsVax®

The revised corporate documents were provided to the Board for review. Mr. Potter apologized for the delay in getting this material out to the Board and noted that he realizes that the Board needs additional time for review of the documents. He provided a brief explanation concerning the technical difficulties which had to be addressed to get out this draft.

A brief update on TRICARE was provided. TRICARE is saying that they will pay the assessments in the State of Washington. They have raised the concern that they will not participate in a plan where they are paying twice. Some language has been offered in the draft Plan of Operation that will enable NHVA to remove that. They have also said that they will get around to these other states as well. The Congressional Delegations from Maine and Washington are communicating to TRICARE their expectations that they will participate in the state's plan.

The February financial statements were reviewed by Ms. Roberge. They are unremarkable this month with most activity expected to take place in May when the assessments are received. The Statement of Financial Position shows cash at \$15,258. Short-term investments are at \$5,153,022 and will be used as part of the assessments in May and part of the payment back to the State. The prepaid expenses are \$6,415 for D&O insurance. The total assets are \$5,174,695. Current liabilities are the liquidity reserve that was approved by the Board for \$250,000. From the Statement of Activities there is -\$151,073 of net assets, leaving total liabilities and net assets of \$5,174,695. The Statement of Activities and Changes in Net Assets shows very little activity. There are professional fees for Attorney McCue, and administrative services fees for KidsVax®. The insurance is the amortization of the insurance for D&O for \$641. Unrestricted net assets are \$10,741 for this month and \$151,073 for the year, which was carried forward onto the Statement of Financial Position.

Ms. Pliakos gave a brief update on the assessment system training days. Questions that were received during the training have been incorporated into the FAQs, but she feels it would be helpful to hold another training session closer to the assessment due date in May to assist those payers who have not yet participated in a training session. Ms. Tenney listened in on the first training session and thought it was very well done.

#### DHHS Update

Dr. Montero gave a brief update on the Immunization Information System (IIS). The immunization system contract goes to counsel on April 9, 2014. The business plan and other documents are ready for approval of the contract.

#### Old Business

With respect to the 2014 Annual Report, Ms. Pliakos reported that based on the final review, the changes discussed at the last meeting have been completed and the report has been posted to the website for several weeks. It is Ms. Pliakos' understanding from the last meeting that the report is to be distributed to medical facilities around the state, the legislators, and professional associations. Those distribution lists are being compiled and she anticipates that the Annual Report should be distributed to everyone around the end of this week.

With respect to the revised working drafts of the governance documents, it was the sense of the board that a meeting in 3-4 weeks to discuss the documents in detail would be helpful to everyone. KidsVax® will post the correct working versions of the governance documents to the website for Board review. The Board requested that a cumulative redlined version be made available for review. KidsVax® will redistribute a clean working version and a redlined versus the website version of the Plan of Operation. After further discussion, it was the consensus of the Board to reconvene on Tuesday, May 13, 2014 at 8:30 a.m. at KidsVax® for continued discussion regarding the revisions to the working governance documents and FAQs. Ms. Pliakos requested that the FAQs be reviewed prior to the May 13<sup>th</sup> date in preparation for the May 15<sup>th</sup> assessment due date. Ms. Pliakos will send the FAQs to the Board this week and will request responses back from the Board in one week. Ms. Tenney requested that Board responses be submitted directly to Ms. Pliakos and not to the entire Board. Once Board members have had time to make comments, KidsVax® will post the advisory FAQs to the NHVA website; noting that the posting will be subject to further Board revision once the Board deliberates together in May.

#### Other Matters from Board Members

Ms. Bobinsky updated the Board regarding the upcoming NHIP Conference scheduled for Wednesday, March 26, 2014 beginning at approximately 8:00 a.m. at the Radisson Hotel in Manchester. There will be discussions about adult immunizations because the standards for adult practice for immunizations has just been released and there is a push toward getting adults vaccinated and to begin to take a stronger look at whether or not a person needs to be vaccinated as an adult. There will also be information on quality improvement, as well as another individual speaking about quality improvement in terms of HPV vaccines specifically. Dr. Lamm will be speaking about how to talk with parents about having their children immunized. Dr. Montero will be speaking about the integration of public health and clinical care. Registrations are still being accepted at [www.nhipconference.com](http://www.nhipconference.com).

#### Public Comment

Ms. Tenney opened the meeting for public comment. Ms. Condon made several requests for additional information concerning clarification regarding the meeting originally scheduled for April 15, if the State or NHVA track vaccine waste, where the information on the list of payers for the vaccine assessment is available, and information regarding what other states have a state vaccine registry and how those registries are being funded, whether there have been any legal challenges to it, and will they also be tracking injuries and deaths following vaccination, in addition to who has been vaccinated. Ms. Condon will follow-up by e-mail to Mr. Potter who will then respond to her special requests in accordance with Board policy.

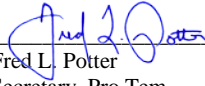
Upon motion duly made by Mr. Montero and seconded by Ms. Proulx, it was unanimously

VOTED: To adjourn.

There being no further business or public comment, the meeting adjourned at approximately 10:17 a.m.

A true record.

Attest,

  
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Fred L. Potter  
Secretary, Pro Tem